

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re J.M., et al., A Person Coming Under
the Juvenile Court Law.

B209351
(Los Angeles County
Super. Ct. No. CK62974)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Petitioner and Respondent,

v.

B.H.,

Objector and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Jacqueline H. Lewis, Juvenile Court Referee. Affirmed.

Eva E. Chick, under appointment by the Court of Appeal, for Appellant.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County Counsel, Aleen L. Langton, Senior Deputy County Counsel, for Respondent.

B.H. (mother) appeals an order of the juvenile court pursuant to Welfare and Institutions Code section 366.26¹ terminating her parental rights over her son, J.M. (child). Mother argues that (1) the juvenile court abused its discretion in denying her section 388 petition seeking the return of child to her care, and (2) the juvenile court erred in concluding that the parental relationship exception to the termination of parental rights (§ 366.26, subd. (c)(1)(B)(1)) did not apply. For the reasons stated below, we affirm.

BACKGROUND

A. Detention

Child was born in December 2005. When child was two days old, the Los Angeles County Department of Child and Family Services (DCFS) received a referral alleging that mother, who had a long history of substance abuse and criminal activity, was neglecting child. DCFS substantiated the referral, and mother entered into a voluntary family maintenance contract with DCFS that required mother, among other things, to complete substance abuse counseling, random drug testing and parenting classes.

In January 2006, child was diagnosed with a urinary tract infection and vesicoureteral reflux in his left kidney. Child's conditions required ongoing medical care. Between January and April 2006, mother failed to take child to six of his medical appointments. Mother also missed three drug tests and eight sessions at the methadone clinic she was attending.

On April 5, 2006, DCFS detained child due to mother's neglect. DCFS thereafter filed a petition pursuant to section 300 alleging that (1) mother's substance abuse problem rendered her incapable of providing regular care for child; (2) mother had failed

¹

All statutory references are to the Welfare and Institutions Code.

to provide child with necessary medical care; and (3) mother had failed to comply with the terms of her family maintenance contract. Child was placed with a foster care agency.

At the detention hearing, mother was appointed counsel and submitted a letter from the Community Health Care Clinic stating that mother had been addicted to heroin while pregnant with child, but that mother had attended all of her counseling appointments and had six negative drug tests between December 2005 and April 2006. Mother requested that child be returned to her care. The juvenile court denied mother's request and ordered child detained in the home of his paternal aunt and uncle (caretakers).² The juvenile court ordered DCFS to provide mother with family reunification services and monitored visits.

B. Jurisdiction/Disposition

In May 2006, DCFS reported that mother's criminal history dated back to 1984 and included one felony conviction for receiving stolen property and several narcotics-related misdemeanor convictions. Mother admitted to a "long history" of drug abuse and that she had used drugs while pregnant with child. Mother had two adult children and a 14-year old son who resided with his maternal grandmother. Mother had attended a medical appointment with child on April 20, and had visited child consistently. Child was bonding with and had made "excellent progress" with caretakers.

Mother pleaded no contest to the allegations that her unresolved history of substance abuse periodically rendered her incapable of providing regular care for child and that she had failed to provide child with appropriate medical treatment. She agreed to undergo drug rehabilitation with random testing, parenting education and other individual counseling. Mother also agreed that child would remain with caretakers and that her visitation would be monitored. The juvenile court sustained the petition as

²

Child's alleged father did not participate in proceedings in the juvenile court and is not a party to this appeal.

amended and found that mother had made partial progress toward alleviating the conditions necessitating child's detention.

C. Six Month Review

In July 2006, mother alleged that paternal aunt had neglected and emotionally abused child. The Riverside County child protective service investigated mother's allegation and determined that it was unfounded. Mother exhibited erratic and antagonistic behavior toward caretakers during visitation, and asked DCFS to remove child from caretakers and place him with maternal grandmother. DCFS determined that maternal grandmother was not an appropriate caregiver.

In September 2006, DCFS reported that mother had not visited child since mid-July and had not contacted either DCFS or child's caretakers. Also in September 2006, mother entered an inpatient substance abuse program.

In November 2006, DCFS reported that mother was still residing at her inpatient substance abuse program, where she was having weekly monitored visits with child. She had enrolled in parenting classes, and her most recent drug test was negative. Child's health was stable, and he continued to receive medical care. He appeared to be extremely happy and well adjusted with caretakers. At the six month review hearing, the juvenile court found that mother had consistently and regularly visited child and had made significant progress. The juvenile court ordered continued reunification services for mother.³

³ It appears that, due to defective computer discs, there are no transcripts of juvenile court hearings held on May 30 and 31, June 12 and 27, and November 13, 2006. Neither party claims and it does not appear that the absence of these transcripts impedes our ability to review the issues on this appeal.

D. Twelve Month Review

In May 2007, DCFS reported that child was medically fragile and continued to receive treatment for his medical conditions. Child was emotionally attached to caretakers and was happy and content in his placement.

Mother, on the other hand, had been dismissed from her drug treatment program in December 2006 because of “inappropriate interaction[s]” with male residents. She had entered another residential treatment program in January 2007 and had tested negative for drugs in January, February and March. However, mother was dismissed from the second program in April 2007 for “incident[s] with male residents.” Mother had entered a third treatment facility, but it appeared she would have to leave that facility because of funding issues. Mother also had failed to complete her parenting education program. Nevertheless, caretakers consistently had transported child to visit mother every other week for two hours.

DCFS recommended the termination of mother’s reunification services because of mother’s failure to complete a substance abuse program and her lack of stable housing. Caretakers told DCFS that they were willing to become child’s legal guardians. Mother contested DCFS’s recommendation, and the matter was set for a hearing.

Prior to the contested hearing, DCFS reported that mother had partially complied with the case plan. Mother had entered another inpatient drug treatment program, Angel Step Too. Mother’s counselor told DCFS that mother’s participation was satisfactory and that she was “doing better than expected.” Mother continued to test negative for drugs. Mother also had successfully completed a parenting program. Mother told DCFS that she wanted to maintain visitation with child once the permanent plan of legal guardianship was implemented.

The juvenile court held the contested hearing in June 2007. The program director of Angel Step Too testified that mother entered the program on May 4, 2007. She had tested negative for drugs for the 10 months preceding her admission and for the five weeks thereafter. In addition to individual counseling, mother was receiving psychiatric care and was taking medication for depression and paranoia. Mother was participating in

12-step meetings; classes on parenting, relapse prevention, domestic violence and living skills; and G.E.D. and vocational education classes. Mother's progress had been significant. Mother could complete the program within another six months.

Mother testified that she had stopped using heroin shortly after child was born, but had relapsed after DCFS detained child. She had then entered a residential methadone program at Tarzana Treatment, but left after 15 days. She testified that she had been clean since August 2006, and her psychotropic medications were helping her.

The parties stipulated that, if called, the social worker would testify that mother had not missed any drug tests and had tested clean since September 2006. The juvenile court ordered that mother receive another six months of reunification services.

E. Eighteen Month Review

In August 2007, DCFS reported that mother remained at Angel Step Too and was progressing satisfactorily, but mother's counselor and therapist had recommended (and mother agreed) that mother should continue treatment for at least an additional year. Mother was on the waiting list to transfer to another facility, Prototypes, that would provide a longer program and intensive mental health services. Mother transferred to Prototypes in mid-August 2007.

In October 2007, DCFS reported that child, then 22 months old, was happy, content and emotionally attached to his caretakers. His health was stable, although he continued to take prophylactic antibiotics daily.

Mother continued to visit with child regularly and to test negative for drugs. She was in the first of three phases of her treatment at Prototypes. It would take mother at least one year to complete the entire program. Mother had no permanent housing or employment. DCFS recommended that the juvenile court terminate reunification services and schedule a permanency planning hearing. The juvenile court set the matter for a contested hearing, and gave DCFS discretion to permit mother to have unmonitored visits with child at Prototypes.

In November 2007, DCFS reported that child's caretakers had bonded with and wanted to adopt him. There had been no material change in mother's circumstances.

In January 2008, DCFS reported that mother had entered the second phase of her treatment at Prototypes. She continued to comply with the treatment program and test negative for drugs. A letter to the juvenile court from Susan Nelson, mother's counselor at Prototypes, stated that there was room at Prototypes for child to reside with mother.

A contested 18 month review hearing was held on January 22, 2008. Ms. Nelson testified that mother was progressing well in her treatment. Her random drug tests had been negative. Ms. Nelson expected that mother soon would be granted passes to leave the house for a few hours. Mother could complete the program by August 2008. After mother completed the program, she would receive assistance in finding housing and would participate in aftercare on an outpatient basis. Ms. Nelson further testified that child could reside with mother at Prototypes, and that medical staff was available on site and at a nearby hospital to tend to child's medical needs.

Mother testified that she did not believe she would have to complete the program to overcome her addiction if she "stay[ed] connected" to the program. She believed she could care for child and was aware of his medical condition and his treatment. She wanted to live with child at Prototypes, where they would share a room with six other women.

Counsel for child called the social worker, Rhonda Williams, to testify. Ms. Williams testified that, since moving to Prototypes, mother had six or seven unmonitored visits of two to three hours each, but no overnight visits. Child's medical condition was stable. His treatment consisted of a daily dose of the antibiotic Amoxicillin. Ms. Williams was concerned about child living at Prototypes because it was not a children's facility, mother would be solely responsible for child, there was a risk that mother might flee with child, and mother had not been stable in the treatment facilities she had attended prior to Prototypes. Mother had tested clean for 17 months, but Ms. Williams was concerned that mother still had not completed any treatment program. Mother's

counselors from Angel Step Too had told Ms. Williams that mother had “a lot of underlying issues.”

The juvenile court found that mother had made only partial progress toward alleviating the conditions necessitating child’s detention. The juvenile court noted that mother had not been “clean” for 17 months because she had missed tests from July to September 2006. Mother had been discharged from two treatment facilities. Although mother had been receiving services from DCFS for two years, mother had told DCFS that she felt she was finally dealing with her problems for the first time when she entered Angel Step Too in August 2007, only five months earlier. Mother was thus in the beginning stages of her treatment program. The juvenile court concluded that mother was “still not in a place where [child] can be safely returned.” The juvenile court terminated mother’s reunification services and set a permanency planning hearing for May 2008.

F. Section 388 Petitions and Permanency Planning

Mother filed petitions pursuant to section 388 seeking custody of child on both February 25 and March 7, 2008. The juvenile court denied mother a hearing on her February 25 petition, but granted mother a hearing on the March 7 petition. Mother asserted in the March 7 petition that her circumstances had changed because she was “a changed person” and “responsible.” The juvenile court held the hearing on the section 388 petition and the permanency planning hearing both on June 12, 2008.

Prior to the hearings, DCFS reported that caretakers had been approved as child’s prospective adoptive parents. DCFS also reported that mother continued to make satisfactory progress at Prototypes and continued to test negative for drugs. Mother was nearing completion of the second phase of her treatment. Mother’s counselors told DCFS that “it is imperative” that mother complete the program “to address her mental health issues as well [as] her problems with substance abuse.” Mother had maintained contact with child, with caretakers transporting child to Prototypes for weekly two-hour visits.

At the hearing, the juvenile court admitted into evidence eight DCFS reports, three letters from Prototypes regarding mother's progress, and certificates attesting that mother had completed domestic violence and vocational training programs.

Mother testified that she had entered the third and final phase of her treatment at Prototypes, was on the third step of her 12-step program, and anticipated completing the program at Prototypes in August 2008. Thereafter, she would continue to participate in outpatient treatment. Prototypes had room for child to live with her. A nurse would administer child's medication. Mother testified that she understood child's medical condition and his treatment, and that she had read in the DCFS report that child's condition was stable and that he did not need treatment other than antibiotics. Mother believed she had changed since she lived "the drug life." She expected to start trying to find a job "pretty soon" and aspired to go to "training school" to become a nurse.

With respect to her section 388 petition, mother argued she had "continue[d] to work diligently" and was "closer to the completion of her programs." Counsel for child joined in mother's argument.⁴ DCFS argued that, although mother's circumstances might be changing, she had not completed a treatment program or demonstrated that she was capable of meeting child's medical or other needs. Moreover, mother had offered no evidence to show how returning child to her custody would be in child's best interest.

The juvenile court denied mother's section 388 petition on the ground that returning child to mother would not be in child's best interest. The juvenile court stated that mother had been provided with 30 months of services for a drug abuse problem that she had struggled with for years, and still mother had not completed a treatment program. Although mother's circumstances might be changing, they were not yet changed, and the juvenile court had "no idea" whether mother would be able to maintain sobriety or take

⁴ Child was represented throughout the proceedings by Children's Law Center attorney Kristen Walker. Ms. Walker, however, was not present at the June 12, 2008 hearings. Child was represented at those hearings by attorney Estaire Press, appearing in Ms. Walker's place.

care of herself, particularly as mother faced mental health issues as well as her drug use. Child had lived with caretakers for “the great majority of his life.” Caretakers had provided for child’s needs, including his medical care; had completed an adoption home study; and were ready, willing and able to adopt child. The juvenile court concluded it would not be in child’s best interest to remove him from a stable home and put him in a situation “where I have absolutely no idea whether mother will be able to maintain sobriety or take care of him.”

With respect to permanency planning, mother argued that her parental rights should not be terminated because she had visited child regularly and “is very attached to him.” The juvenile court agreed that mother had maintained visitation. There was no evidence, however, that child “consider[ed] anybody to be his parents other than” caretakers. Accordingly, the juvenile court concluded that “permanence in an adoptive home outweigh[ed] any possible benefit of [child’s] continuing relationship with his mother.” The juvenile court terminated mother’s parental rights and selected adoption as the permanent plan. Mother timely appealed.

DISCUSSION

A. The Juvenile Court Did Not Abuse Its Discretion by Denying Mother’s Section 388 Petition

We review the juvenile court’s denial of mother’s section 388 petition for abuse of discretion. (*In re Jasmon O.* (1994) 8 Cal.4th 398, 415; *In re Shirley K.* (2006) 140 Cal.App.4th 65, 71.) “We must uphold the juvenile court’s denial of appellant’s section 388 petition unless we can determine from the record that its decision “exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.” [Citations.]’ [Citations.]” (*In re Brittany K.* (2005) 127 Cal.App.4th 1497, 1505.)

Section 388, subdivision (a), permits anyone having an interest in a dependent child to petition the juvenile court for a hearing to change, modify or set aside a previous

order on the ground of changed circumstances or new evidence.⁵ If the petition shows changed circumstances or new evidence indicating that the proposed modification “may be” in the child’s best interests, the juvenile court must hold a hearing on the petition. (§ 388, subd. (c); Cal. Rules of Court, rule 5.570(e), (f).)

At the hearing, “the burden of proof is on the moving party to show by a preponderance of the evidence that there is new evidence or that there are changed circumstances that make a change of placement in the best interests of the child.” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.) That burden is heavy for a parent, as mother, seeking to regain custody of a child after the termination of reunification services. “After the termination of reunification services, the parents’ interest in the care, custody and companionship of the child are no longer paramount. Rather, at this point ‘the focus shifts to the needs of the child for permanency and stability’ [citation], and in fact, there is a rebuttable presumption that continued foster care is in the best interests of the child. [Citation.]” (*In re Stephanie M.*, *supra*, 7 Cal.4th at p. 317.) “It is not enough for a parent to show *just* a genuine change of circumstances under the statute. The parent must show that the undoing of the prior order would be in the best interests of the child.” (*In re Kimberly F.* (1997) 56 Cal.App.4th 519, 529.)

When mother’s section 388 petition was heard, child was 30 months old. He had lived with caretakers for 26 of those 30 months. Caretakers had provided a stable and nurturing environment, and had tended to all of child’s needs. They loved child and wanted to adopt him; their adoption home study had been completed and approved.

⁵

Section 388, subdivision (a) provides in pertinent part: “Any parent or other person having an interest in a child who is a dependent child of the juvenile court or the child himself or herself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court.”

In contrast, although mother had made substantial progress in treating her substance abuse and mental health issues, she offered no evidence to establish how granting her custody of child would be in *child's* best interest. Mother had not played a parental role in child's life since he was four months old. Although mother visited child regularly, her visits lasted only two to three hours per week. She had not had any overnight or extended visitation.

Furthermore, returning custody of child to mother would have meant that child would have to move from a stable, nurturing and loving home with caretakers to live with mother in a residential drug treatment facility, where they would share a room with six other women. Two months later, in August 2008—if mother completed the program at Prototypes as she expected—mother and child would have to leave Prototypes and move into transitional housing while mother continued outpatient drug treatment. Mother was unemployed and had no stable, permanent housing.

“[A]s in any custody determination, a primary consideration in determining the child's best interest is the goal of assuring stability and continuity. [Citation.] When custody continues over a significant period, the child's need for continuity and stability assumes an increasingly important role. [Citation.] That need often will dictate the conclusion that maintenance of the current arrangement would be in the best interests of that child. [Citation.]” (*In re Angel B.* (2002) 97 Cal.App.4th 454, 464, citing *In re Stephanie M.*, *supra*, 7 Cal.4th at p. 317.) The juvenile court reasonably could conclude that child's interests in continuity and stability were best served by denying mother's section 388 petition and maintaining child's placement with caretakers.

Mother argues that the factors for evaluating a section 388 petition set forth in *In re Kimberly F.*, *supra*, 56 Cal.App.4th 519, compel reversal. Those factors are (1) the seriousness of the problem leading to the dependency proceedings; (2) the strength of the relative bonds between the child and both the parent and the caretaker; and (3) the degree to which the problem may be or has been easily removed. (*Id.* at p. 532.) None of these factors favors mother.

1. Seriousness of the Problem

Mother argues that the problem that led to child's detention was "not serious by comparison" to such issues as the physical, emotional or sexual abuse of a child. We disagree that mother's drug problem was "not serious." Mother had been a drug addict for 18 or 19 years. She used heroin and methamphetamines while pregnant with child, and she had failed to obtain treatment for child's serious medical condition because of her drug use. She also had been unable to raise her three older children because of her drug problem. Mother's prolonged drug addiction had rendered her unable to care for child.

2. Relative Bonds

Mother argues that "[i]t is difficult to assess" whether child's bond with mother was stronger than his bond with caretakers and "whether it would be detrimental to remove [child] from the caretakers." We do not find the issue difficult to assess.

The evidence that child felt a parental bond with mother is weak. The program director at Angel Step Too testified at the 12-month review hearing that, although she had "not observed [for] extensive periods of time," mother's visits with child "appear[ed] to be loving and nurturing" and "appropriate." Mother's counselor at Prototypes, Susan Nelson, wrote to the juvenile court in a letter dated January 3, 2008, that mother had "been observed . . . as being a nurturing parent." Mother played with child, "appear[ed] very observant as to what [child was] doing at all times," and mother "appear[ed] very happy when her son [was] with her." In a letter dated March 6, 2008, Ms. Nelson wrote that child "*appear[ed] to be building* a bond with [mother] as evidence [*sic*] by his smiles and how he runs to her." (Italics added.) Mother testified concerning her interactions with child, "At first like he didn't know me, because you know I was not seeing him that much. But now when he sees me, when they drop him off he runs to me. And we—we—I play with him, you know."

The DCFS reports contained no information regarding whether or to what extent child had bonded with mother, noting merely that visitation had occurred and reporting mother's concern that visitation continue after the implementation of a permanent plan

“because [child’s] presence gives [mother] the incentive to continue treatment.” The social worker testified at the 18 month review hearing that mother had not had overnight visits, but mother had participated in six or seven unmonitored visits with child. The social worker had observed two visits. At one, child “was a little pouty and probably ready to go home.” At the other, child “seemed to be a little more comfortable.” The social worker, however, had not yet assessed “how he’s [child] adjusted when he’s with the mother”

In sum, the evidence shows that, for more than two years, mother had visited with child on average once per week for two to three hours. There is no evidence that they ever had overnight or extended visits. During the visits, mother played with child or watched child play. The inference is thus tenuous that child’s bond with mother was any greater than the bond child might have with a playmate with whom child had regular play dates.

In contrast, child had lived with caretakers for more than two years—nearly all of his life. Caretakers had provided for all of child’s material and medical needs, and had provided a stable, nurturing and loving home where child was happy, content and emotionally stable. Caretakers told DCFS that child “has bonded with their family” and that “they have bonded with him and love him as if he is their biological child.” Caretakers wanted to adopt child, and had been approved as child’s prospective adoptive parents. As the juvenile court observed, caretakers were the only parents child had ever known. The juvenile court thus reasonably could conclude that child shared a more significant parent-child bond with caretakers than with mother.

3. Whether the Problem Had Been Alleviated

Mother argues that she had alleviated the problems that led to child’s detention as she “ha[d] proof of negative drug tests for two years” and had “resolved her parenting issues.” Although mother had made great progress toward overcoming her addiction, we disagree that mother proved that she had done so. Mother had been a drug addict for nearly 20 years. There was no evidence that, in all of that time, mother had completed a

drug rehabilitation program or maintained her sobriety for any significant period of time outside of the regimented environment of a residential treatment facility. Mother also faced unresolved mental health issues⁶ that might affect her ability to care for child. Mother had no employment or permanent housing. The juvenile court reasonably concluded that, based on the evidence, it had “absolutely no idea whether mother [would] be able to maintain sobriety or take care of [child]” after she left her treatment program.

Mother relies on *In re Amber M.* (2002) 103 Cal.App.4th 681 (*Amber*). That case is contrary to mother’s position. In *Amber*, the Court of Appeal held that the juvenile court properly *denied* a mother’s section 388 petition in circumstances similar to this case. The mother in *Amber* had been clean for 372 days; had completed a residential treatment program and graduated to sober living housing; and had completed a two-month trial visit with one of her three children. (*Id.* at pp. 686-687.) But, similar to mother in this case, the mother in *Amber* had abused drugs for 17 years; the children had been out of her care for more than two years and had bonded with their caretakers; most of the mother’s visitation during the dependency proceedings had been monitored; and the mother was only on step three of her 12-step program. (*Ibid.*) The Court of Appeal in *Amber* concluded “that the juvenile court did not abuse its discretion by determining that [although] Mother was progressing in treatment, return to her custody would not be in the children’s best interests.” (*Id.* at pp. 687.) We reach the same conclusion in this case.

B. Substantial Evidence Supported The Juvenile Court’s Order Terminating Parental Rights

Section 366.26 provides that the preferred disposition at a permanency planning hearing is to “[t]erminate the rights of the parent . . . and order that the child be placed for adoption” (§ 366.26, subd. (b)(1); see also *San Diego County Dept. of Social*

⁶

According to a February 2008 letter from Prototypes, mother was still receiving psychiatric care and was taking both antipsychotic and antidepressant medications.

Services v. Superior Court (1996) 13 Cal.4th 882, 884-885.) Because of this statutory preference, the juvenile court must terminate parental rights unless one of the exceptions specified in section 366.26 exists. (*In re Valerie A.* (2007) 152 Cal.App.4th 987, 997; *In re Autumn H.* (1994) 27 Cal.App.4th 567, 573-574.) One such exception is the parental relationship exception, which applies when termination of parental rights would be detrimental to the child because the parent has “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).) To invoke the parental relationship exception, the parent bears the burden of proving both that visitation was regular and that the child would benefit from continuing the relationship. (*In re Mary G.* (2007) 151 Cal.App.4th 184, 207; *In re Derek W.* (1999) 73 Cal.App.4th 823, 826-827.) Because the juvenile court found that mother maintained regular visitation, only the second prong is at issue in this case.

To meet her burden under the second prong, mother was required to establish that “the relationship promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.” (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) In evaluating the parent’s showing, the juvenile court must “balance[] the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated.” (*Ibid.*) Accordingly, a parent “must show more than frequent and loving contact or pleasant visits. [Citation.]” (*In re Mary G.*, *supra*, 151 Cal.App.4th at p. 207.) Rather, “[t]he parent must show he or she occupies a parental role in the child’s life, resulting in a significant, positive, emotional attachment between child and parent. [Citations.]” (*Ibid.*; see *In re Helen W.* (2007) 150 Cal.App.4th 71, 80-81 [frequent visits where mother “clearly loved her children” and fed and changed them were insufficient to establish parental relationship exception where children were young and had lived with foster mother most of their lives]; *In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1416-

1418 [that parents moved into same apartment complex and had “frequent and loving” contact with children insufficient to establish parental relationship exception where children were young, had lived with caretaker since infancy and looked to caretaker as mother figure].)

We review a juvenile court’s determination that the parental relationship exception does not apply for substantial evidence. (*In re Mary G.*, *supra*, 151 Cal.App.4th at p. 206; *In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 576.)⁷ We will affirm if there is any substantial evidence—that is, evidence which is reasonable, credible and of solid value—to support the juvenile court’s conclusion. (*In re Henry V.* (2004) 119 Cal.App.4th 522, 529; *Francisco G. v. Superior Court* (2001) 91 Cal.App.4th 586, 600; *In re Jasmine C.* (1999) 70 Cal.App.4th 71, 75.) “[W]e presume in favor of the order, considering the evidence in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order.” (*In re Mary G.*, *supra*, 151 Cal.App.4th at p. 206.) “The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the finding or order.” (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

Mother argues that the juvenile court erred because there was evidence that child “was happy to see [mother] and ran to her whenever he saw her,” and that mother had “a bonded relationship” with child. As previously discussed, however, the juvenile court reasonably could conclude that the evidence was insufficient to show that the benefits to child from a continued relationship with mother outweighed the substantial benefits to child from a stable and permanent adoptive home. That mother might have been *developing* a significant relationship with child through her visitation is not sufficient to

7

Some courts have applied an abuse of discretion standard in these circumstances. (E.g., *In re Aaliyah R.* (2006) 136 Cal.App.4th 437, 449; *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.) However, “[t]he practical differences between the two standards of review are not significant.” (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1351.) We would conclude under either standard of review that the juvenile court did not err.

invoke the parental relationship exception. As noted above, “pleasant and cordial . . . visits are, by themselves, insufficient to mandate a permanent plan other than adoption.” (*In re Brian R.* (1991) 2 Cal.App.4th 904, 924.) Even “frequent and loving contact” is insufficient to establish the type of beneficial relationship contemplated by the statute. (*In re Beatrice M.*, *supra*, 29 Cal.App.4th at p. 1418.) Mother was required to establish that “the parent-child bond is a ‘substantial, positive emotional attachment such that the child would be greatly harmed’ if parental rights were terminated.” (*In re Helen W.*, *supra*, 150 Cal.App.4th at p. 81; *In re Angel B.*, *supra*, 97 Cal.App.4th at p. 466.) She did not do so. We affirm the juvenile court’s determination that mother failed to meet her burden under section 366.26, subdivision (c)(1)(B)(i).

DISPOSITION

The orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

MOSK, J.

We concur:

TURNER, P. J.

ARMSTRONG, J.